

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

GENEVA PHARMACEUTICALS TECHNOLOGY
CORP.,

Plaintiff,

-against-

BARR LABORATORIES, INC., BRANTFORD
CHEMICALS INC., BERNARD C. SHERMAN,
APOTEX HOLDINGS, INC., APOTEX, INC.,
and SHERMAN DELAWARE, INC.,

Defendants.

APOTHECON, INC.,

Plaintiff,

-against-

BARR LABORATORIES, INC., BRANTFORD
CHEMICALS INC., BERNARD C. SHERMAN,
APOTEX HOLDINGS INC., APOTEX INC.,
and SHERMAN DELAWARE, INC.,

Defendants.

**BRANTFORD CHEMICAL INC.'S MOTION FOR LEAVE
TO FILE UNDER SEAL EXHIBIT E TO ITS MEMORANDUM
IN SUPPORT OF ITS MOTION TO COMPEL E.I. DU PONT
DE NEMOURS & COMPANY TO COMPLY WITH SUBPOENA**

Now comes Defendant Brantford Chemicals Inc. (“Brantford”) and hereby moves this Court for leave to file under seal the Affidavit of John C. Budzinski, attached as Exhibit E to Brantford’s Memorandum in Support of its Motion to Compel E.I. du Pont de Nemours & Company (“E.I. du Pont”) to Comply with Subpoena. In support, Brantford respectfully states as follows:

1. Brantford seeks to file, under seal, the Affidavit of John C. Budzinski which has been designated “Highly Confidential—Attorney’s Eyes Only” and which is attached as Exhibit E to Brantford’s Memorandum in Support of its Motion to Compel E.I. du Pont to Comply with Subpoena.

2. There is already a Confidentiality Stipulation and Protective Order (“Protective Order”) entered in the underlying litigation, *Geneva Pharms. Tech. Corp. v. Barr Labs., Inc., et al.*, Case No. 98 Civ. 861 (DLC), pending in the United States District Court for the Southern District of New York before Judge Cote. *See*, Exhibit 1, Confidentiality Stipulation and Protective Order (Sept. 14, 1998); Exhibit 2, Amendment to the Protective Order (Jan. 12, 1999).

3. Brantford has provided to E.I. du Pont a copy of the Protective Order entered in the underlying litigation, which was amended specifically to encompass documents produced by third-party subpoena respondents. Documents provided or produced by third parties which are designated “Confidential” or “Highly Confidential” shall be governed by the terms of the Protective Order.

4. The Affidavit of John C. Budzinski is designated “Highly Confidential-Attorney’s Eyes Only” and accordingly must be filed under seal before this Court.

5. As Brantford is seeking to file only Mr. Budzinski’s Affidavit under seal, Brantford also requests that it be relieved of the obligation to submit a redacted copy within five (5) business days, as there would be no substantive unredacted information in Exhibit E to be filed publicly.

WHEREFORE, Defendant Brantford Chemicals Inc. respectfully requests that this Court enter an Order granting Brantford's Motion for leave to file under seal the Affidavit of John C. Budzinski, attached as Exhibit E Brantford's Memorandum in Support of its Motion to Compel E.I. du Pont to Comply with Subpoena, and relieve Brantford of its obligation to file a redacted version of Exhibit E.

Dated: December 6, 2005

Respectfully submitted,



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